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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,579	03/31/2004	Tal Drory	200315226-1	6932
22879 7590 09/25/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER DAYE, CHELCIE L	
			ART UNIT 2161	PAPER NUMBER
			NOTIFICATION DATE 09/25/2008	DELIVERY MODE ELECTRONIC

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JERRY.SHORMA@HP.COM  
mkraft@hp.com  
ipa.mail@hp.com

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10814579	3/31/2004	DRORY ET AL.	200315226-1

**EXAMINER**

CHELCIE DAYE

ART UNIT	PAPER
2161	20080909

**DATE MAILED:**

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**Commissioner for Patents**

A new grounds of rejection has been presented for claims 1-11 and 21-23 under 35 USC § 101 for non-statutory subject matter.

**Claim Rejections - 35 USC § 101**

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-11 and 21-23 are directed to non-statutory subject matter. More specifically, claims 1-11 recite "a system for performing query operations", wherein the system comprises various tables, such as a base table and an index table, along with a module. The appellants specification recites "The database 80 may comprise a spatial index table 90 (shown in dashed lines) and a base table 84 (shown in dashed lines). Those of ordinary skill in the art will appreciate that other storage devices in the network 10 may store databases, which may include spatial index tables" (see paragraph [0016]). As understood within the art a table is merely a set of data elements that is organized using a model of vertical columns and horizontal rows, wherein a base table is a table physically stored within the database and created using a CREATE TABLE command, while an index table is a table that can be accessed using an index. Next, the appellants specification recites "The network architecture 10 may include a module, such as a database management system ("DBMS")" (see paragraph [0018]), wherein a DBMS is a software interface between the database and the user (see "Microsoft Computer Dictionary", Fifth Edition, published 2002). Lastly, the appellants specification states "Each of the operators 94-102 may be implemented as a software program, such as a routine within the DBMS 88, or may be implemented as a combination of hardware and software components, as well. Through the use of these operators 94-102, query operations may be performed on the index table 90 that is associated with spatial data in the base table 84" (see paragraph [0020]), wherein the appellants own specification further associates the tables and module as solely being software. Thereby, the specific system within the claim language lacks any physical properties within the claims or in the description. Also, claims 21-23 recite a computer-readable medium with instructions and code for performing certain actions, wherein the medium has not been defined within the specification and the examiner is unsure of its structure. However, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, software per se.

*[Signature]*  
Acting Director TC2100